

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare - Khammam District – Revision Petition filed by Kantham Laxmi Kumari and 2 others Under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation aggrieved by the decision of Additional Agent to Government in CMA No.29/1999 dated:12-12-2003 – Dismissed - Orders - Issued.

SOCIAL WELFARE (LTR2) DEPARTMENT

G.O.Ms.No.183

Dated:12-9-2008

Read the following.

1. From Sri. A Rajasekhar Reddy, Counsel for the Petitioner, Revision Petition, dated: 30.1.2004.
2. Hon'ble High Court of A.P in W.A.No. 641/2004, dated: 9.4.2004 in W.P No.3333/2004, dt:26-2-2004.
3. Memo No.17016/LTR2/2004-1 and 2,dated 28.6.2004.
4. RC.NO. F2/CMA/29/99 dated 2.7.2006 of District Collector, Khammam.
5. Govt. Letter No: 17016/LTR2/04 dated: 2.8.2006 and 7.6.2007.
6. Govt. Telegram No: 17016/LTR2/04 dated:2.4.2007.

ORDER:

In the reference 1st read above Kantham Laxmi Kumari (W/o Late Kantham Shankar) and Kantham Reenu S/o Sathaiah R/o Yanambailu, Paloncha Mandal, Khammam District, have filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA NO.29/99 dt:12.12.2003, in respect of land in Sy.No.120 extent of Acres. 2.04 guntas situated at Yanambaile (V) Paloncha (M), Khammam District. The main grounds of the Revision Petition among others are:

- i) Petitioner Late K.Shankar's mother viz., Nagamma is Budigam Seethamma's sister's daughter and was adopted by Budigam Seethamma (in the year 1954) i.e. pattedar of land under dispute in Sy.No.120 admeasuring 2.04 guntas in Yanambile village of Paloncha mandal in Khammam District. As the property was inherited, petitioner was cultivating the land in his name, his name was entered in Revenue Records as he is no other than grand son and one of the legal heirs of Budigam Seethamma and entitled for the property of Budigam Seethamma after her death. As the petitioner died, his wife and brother have come on record as legal heirs.
- ii) The Lower Courts have failed to see that Budigam Seethamma passed away on 14.4.1990 and appellants are the legal heirs of the deceased Budigam Seethamma and this aspect was not considered by lower authority and Special Deputy Tahasildar (TW), Paloncha should have enquired about this aspect before submitting his report dt:12.12.1994 to Special Deputy Collector (TW), Paloncha for initiation of Land Transfer Regulation case.
- iii) Both the authorities should have seen that there is no sale or transfer by anybody.

2. Brief facts of the case are that Sri. Yerram Sethi Venkaiah S/o Muthaiah a non-tribal was adopted by Smt. Budigam Seethamma W/o Venkaiah (petitioner in Lower Court) and on the death of Smt. Seethamma the suit land was given to his own elder sister Smt. K. Nagamma W/o Seethaiah and filed a sada sale deed dt: 4.7.1962 said to be executed by Budigam Seethamma. The Special Deputy Collector (TW) Paloncha held that Yerram Setti Venkaiah entered the suit land after enforcement of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/59 read with regulation 1/70 i.e. on 3.2.1970 which is void under law, and the transfer of immovable property belonging to Non-tribe (Kantham Laxmi Kumari)

was made to the non-tribe in contravention of sub-section 1 of section 3 as laid in Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, read with regulation 1/70 after commencement of the regulation and as such it is null and void. The Special Deputy Collector, Paloncha, directed that the immovable property in question be taken into Government possession by the Mandal Revenue Officer Paloncha and assign to the landless poor tribals and order ejectment vide LTR Case No:1308/94/PVC Dated: 26-12-1998. Aggrieved by the order of Special Deputy Collector (TW), Sri Kantam Shankar filed an appeal before the Additional Agent to Government, and the Additional Agent to Government upheld the orders of the lower court in CMA.NO. 29 of 1999, dt: 12.12.2003.

3. In the reference 3rd read above, the Additional Agent to Government Khammam was requested to furnish parawise remarks and case records and the same were furnished in the reference 4th read above. After examination the case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 11-08-2006, 09-04-2007 and finally on 16-06-2007. Counsel for the petitioner present and filed representation for inclusion of daughter Kum K.Vanitha and son K.Sai (Legal Representations) as the Revision Petitioner expired on 26-03-2007. Legal Representations are brought on Record.

4. Government after careful examination of the material evidence on record found that:

- i) on the report of Spl.Dy.Tahsildar (TW), Paloncha that on verification of pahani for 1991-92 pertaining to Yanambile (v) of Paloncha mandal, Smt.Budigam Seethamma (non-tribal) was the pattedar for an extent of Acs.2.04 in Sy.No.120 while Yerramsetti Venkanna (non-tribal) R/o Yanambile was occupant, the Special Deputy Collector (TW), Paloncha initiated LTR case No.1308/94/PVC against the occupant Yerramsetti Venkaiah and another Kantam Shankar S/o Seethaiah as respondents. During the trial, respondent No.1, i.e. occupant Yerramsetti Venkaiah attended the court on 3.2.95 and filed sada sale deed executed on Rs.2/- stamped paper dt. 4.7.62 said to be executed by the petitioner i.e. Smt. Budigam Seethamma. The occupant i.e. respondent No.1 Yerramsetti Venkaiah again attended the SDC (TW) court and stated that he was adopted by Smt. Budigam Seethamma W/o Venkaiah and Seethamma has died. He further stated the land was given to his own elder sister Smt.K.Nagamma W/o Seethaiah by Budigam Seethamma. Hence, notices were issued to Sri Kantam Shankar i.e. son of K.Nagamma, but he did not attend the court and failed to produce documentary evidence in support of his claim over the suit. Therefore, Special Deputy Collector (TW) Paloncha, construed that Yerramsetti Venkaiah i.e. occupant and respondent No.1 in lower court entered the suit land after enforcement of APSA LTR 1/59 R/W 1/70 which is void under law and moreover the burden of proof in having occupied the land in agency area lies on him. Accordingly, orders were passed by Special Deputy Collector (TW), Paloncha on 26.12.1998 to take over possession into Govt. custody and assign to eligible tribals.
- ii) Aggrieved by the orders of the Special Deputy Collector (TW), Paloncha, instead the occupant i.e. respondent No.1 Yerramsetti Venkaiah, Kantam Shankar i.e. Nagamma's son (to whom dispute land of Budigam Seethamma was given) filed appeal in the court of the Agent to Govt. Khammam. The case was taken on file and heard. In this court also, the appellant Sri Kantam Shankar filed only certified copy of Special Deputy Collector (TW), Paloncha order dated 26.12.1998 and except this no other documents were filed to prove his rightful ownership. As seen from the copy of Adoption Deed dt. 4.7.1962 executed on Rs.2/- (Rs.one each on two sheets), it was found that the stamp papers did not disclose any SI.no. of the

document, name of the vendor, name of the purchaser and the date on which it was purchased, which are requisite particulars. Thus, at the appearance itself, the document was held as a concocted one and invented for the purpose of overcoming from the clutches of LTR provisions. Further, the appellant did not file any sada sale deed/agreement as was held in the Special Deputy Collector (TW), court. He also failed to file any other corroborative evidences such as LR receipts, pahani extracts, even for the crucial period of regulation came into force. Therefore the Agent to Govt. Khammam upheld orders of the SDC (TW) Paloncha, in CMA No.29/1999, dt. 12.12.2003.

- iii) The case was called on 18.1.95, 3.2.95, 24.2.95, 8.7.98, 25.7.98, 18.8.98, 10.9.98, 21.9.98, 15.10.98, 30.11.98 and finally on 26.12.98 by SDC (TW) Paloncha. The pattedar Budigam Seethamma never attended. The occupant Yerramsetti Venkaiah i.e. respondent No.1 attended on 3.2.1995 and filed sada adoption deed dt. 4.7.1962 which is fictitious. He again attended the said court on 18.8.1998 and deposed that he was adopted by pattedar Budigam Seethamma and said Seethamma was died 10 years back. The land under dispute was given to his own elder sister Smt.K.Nagamma W/o Sathaiah. Therefore, notices were issued to son of Nagamma i.e. Kantam Sankar. But, Kantam Sankar never attended the lower court. Similarly, in the appellate court also, the appellant i.e. Kantam Sankar failed to submit valid documentary evidence in support of his claim over the suit schedule land.
- iv) The contention of the petitioner that the authorities have failed to see that Budigam Seethamma pattedar was passed away on 14.4.1990 is not correct as it is the duty of the appellant to inform the court about death of Seethamma, pattedar. Moreover, having occupied the suit land in Agency area, the burden of proof lies on the petitioner to prove his rightful possession.
- v) As the lower courts clearly established invention of fake adoption deed to defeat LTR proceedings, as the pattedar died long back and non-joinder of other respondents particularly occupant Yerramsetti Venkaiah (as per pahani of 1991-92 and respondent No.1 in the court of Special Deputy Collector (TW), Paloncha in the appellate Court and also before the Revisional Authority, the Revisional Authority do not intend to continue any further enquiry.

5. Government finds no reason to interfere with the orders of the Additional Agent to Government Khammam, in CMA No. 29 of 1999 dt:12-12-2003 and accordingly dismissed the Revision Petition. The stay granted by the Hon'ble High Court of Andhra Pradesh in W.A.No.641/2004 dt:9.4.2004 against the orders in W.P.No:3333/2004, dt:26-2-2004 shall become inoperative.

6. The Collector / Additional Agent to Government, Khammam is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI.

PRL. SECRETARY TO GOVERNMENT

To:

The Collector, Khammam District (W.E)

(With RPAD of the following Records)

Case File No: 1308/94/PVC Containing CFP 50, NFP 6, Total 56 pages only.

Case File CMA 29/99 containing CFP 56, NFP 12, Total 68 pages only.

The Additional Agent to Government, Palvancha, Khammam

The Special Deputy Collector (TW) Palvancha, Khammam District.

Smt. Kantam Laxmi Kumari W/o Late Kantam Shankar,

R/oYanambile (v) Paloncha (M), Khammam District.

Sri. Kantam Sreenu S/o Sathaiah,
R/oYanambile(v) Palvancha(M), Khammam District.
The Mandal Revenue Officer, Palvancha, Khammam District.
Sri. A.Rajashekar reddy, A.Venkata Krishna Reddy, &
K.Jagadishwar Reddy (Advocates),
Plot No.105, Saraswathinagar, Saidabad, Hyderabad.
The P.S. to M (TW & RAID).
SF / SC

//FORWARDED BY ORDER//

SECTION OFFICER